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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/825,409	04/03/2001	Stephen Lupo	55381 (18102)	1638
26646	7590	10/19/2005	EXAMINER	
KENYON & KENYON ONE BROADWAY NEW YORK, NY 10004			AVELLINO, JOSEPH E	
			ART UNIT	PAPER NUMBER
			2143	
DATE MAILED: 10/19/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/825,409

Applicant(s)

LUPO ET AL.

Examiner

Joseph E. Avellino

Art Unit

2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 and 40-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-38 and 40-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-38, and 40-42 are presented for examination with claims 1, 14, 15, 22, 24, 33, and 41 independent.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 19, 2005 has been entered.

Claim Rejections - 35 USC § 103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 2, 4-10, 14-16, 18, 19, 24-30, 33-36, and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dureau (WO 99/66726) (cited by Applicant in IDS) in view of Footer et al. (US 2002/0129372) (hereinafter Footer)

4. Referring to claim 1, Dureau discloses a system for processing interactive media output from one or more subscribers (i.e. receiving stations 13) comprising:

a collection and aggregation network (e.g. abstract) including:

a collector configured to collect the interactive output from each of the one or more subscribers and to store the collected interactive media output in a non-relational manner (e.g. abstract); and

an aggregator operably connected to the collector, the aggregator configured and arranged to collect and aggregate the interactive output from the collector (p. 7, lines 6-19).

Dureau does not specifically state the collected interactive media output is stored as a flat file. In analogous art, Footer discloses another system for processing interactive media output from one or more subscribers wherein the interactive output is stored as a flat file (the Office takes the term "flat file" as a file consisting of records of a single record type in which there is no embedded structure information that governs relationships between records, as shown in Figure 3B, this is just a data log of the actions performed) (Figure 3B, p. 3, ¶ 37). It would have been obvious to one of ordinary skill in the art to combine the teaching of Footer with Dureau since Dureau discloses collecting information and storing information in a database, however does not disclose as to specifically how this information is set up in the database. This would lead one of ordinary skill in the art to search for other data logging systems and how the data is logged, eventually finding Footer and its system of storing data comprising a number of single actions with timestamp identifiers.

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5. Referring to claim 2, Dureau discloses the collection and aggregation network is configured to process a high volume of the interactive output (i.e. when the set-top box is full) (p. 7, lines 1-5).

6. Referring to claim 4, Dureau discloses the invention substantively as described in claim 1. Dureau does not specifically state that the collected and aggregated interactive output is transmitted through the system in real time. In analogous art, Footer discloses the collected and aggregated interactive output (i.e. the data log) is transmitted through the system in real time (p. 1, ¶ 8). It would have been obvious to one of ordinary skill in the art to combine the teaching of Footer with Dureau since Dureau discloses collecting information and storing information in a database, however does not disclose as to specifically how this information is set up in the database. This would lead one of ordinary skill in the art to search for other data logging systems and how the data is logged, eventually finding Footer and its system of storing data comprising a number of single actions with timestamp identifiers.

7. Referring to claim 5, Dureau discloses at least one communications message server, operably connected to a plurality of the one or more subscribers and the collector, that receives the interactive output from said subscribers and formats the output for transmission to the collector (the set-top box receives the interactive output from the user where it is transmitted to the broadcast station) (e.g. abstract; p. 7, lines 1-5).

8. Referring to claim 6, Dureau discloses the collector includes a plurality of products, each of the products processing the interactive output corresponding to an event (i.e. creating viewer preference filters based on the incoming data) (p. 7, lines 6-24).

9. Referring to claim 7, Dureau discloses the products log at least a portion of the interactive output from the event (p. 7, lines 19-36).

10. Referring to claim 8, Dureau discloses each of the products generates and sends back response replies to the one or more subscribers (p. 7, lines 6-24).

11. Referring to claim 9, Dureau discloses including a plurality of subscriber networks, each of the subscriber networks being operably connected to at least one communications message server, wherein the communication message server is operably linked to at least one collector (i.e. each set-top box includes a message server to transmit messages to the broadcast station) (Figure 1).

12. Referring to claim 10, Dureau discloses the server normalizes the interactive output received from its corresponding subscriber network for transmission to the at least one collector (the term "normalizes" is taken to mean "formatted in order for transmission") (p. 7, lines 1-5).

13. Referring to claim 11, Dureau in view of Footer discloses the invention substantively as described in claim 1. Dureau in view of Footer furthermore discloses another collection and aggregation system wherein the aggregator transmits the interactive output received from the collector to an application server (i.e. interactive server 270) operably connected to the aggregator (p. 2, ¶ 29). It would have been obvious to one of ordinary skill in the art to combine the teaching of Footer with Dureau since Dureau discloses collecting information and storing information in a database, however does not disclose as to specifically how this information is set up in the database. This would lead one of ordinary skill in the art to search for other data logging systems and how the data is logged, eventually finding Footer and its system of storing data comprising a number of single actions with timestamp identifiers.

14. Claims 14-16, 18, 19, 24-30, 33-36, and 41 are rejected for similar reasons as stated above.

Claims 12-13, 20-23, 31, 32, 37, and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dureau in view of Footer in view of Hendricks et al. (USPN 6,160,989) (cited by Applicant in IDS) (hereinafter Hendricks).

15. Referring to claim 12, Dureau discloses the invention substantively as described in claim 1. Dureau does not disclose the application server connected to a producer

event browser via a web server. In analogous art, Hendricks discloses another collection and aggregation system wherein the application server connected to a producer event browser (i.e. a workstation) via a web server (i.e. network controller CPU) (col. 29, lines 4-10). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Hendricks with Dureau in order to effectively targeting advertisements to particular consumers and viewers without relying upon telephone lines as supported by Hendricks (col. 2, lines 55-63).

16. Referring to claim 13, Dureau discloses the invention substantively as described in claim 1. Dureau does not disclose the application server is operably connected to a developer computer via a web server. In analogous art, Hendricks discloses another collection and aggregation system wherein the application server is operably connected to a developer computer via a web server (col. 34, lines 15-54). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Hendricks with Dureau in order to effectively targeting advertisements to particular consumers and viewers without relying upon telephone lines as supported by Hendricks (col. 2, lines 55-63).

17. Claims 20-23, 31, 32, 37, and 38 are rejected for similar reasons as stated above.

Claims 3, 17, 40 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dureau in view of Gai et al. (USPN 6,714,985) (hereinafter Gai).

18. Referring to claim 3, Dureau discloses a collection and aggregation system substantively as described in claim 1. Dureau does not specifically disclose that the network can handle at least 100,000 responses per second. In analogous art, Gai discloses another network wherein the apparatus may handle millions of messages per second (col. 13, lines 20-29). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Gai with Dureau in order to process messages at extremely high speeds, thereby increasing throughput and thereby allowing more users accessing the network as supported by Gai (col. 3, lines 52-56; col. 4, 26-42).

19. Claims 17, 40, and 42 are rejected for similar reasons as stated above.

Response to Arguments

20. Applicant's arguments filed August 19, 2005 have been fully considered but they are not persuasive.

21. Applicant argues, in substance, that (1) Dureau does not disclose the response requests are collected or stored in a flat file, (2) Dureau does not disclose the collected and aggregated data is sent from the set-top box to the broadcast station in real time.

22. As to points (1) and (2) The Office meets this newly added limitation with the Footer reference.

Conclusion

23. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph E. Avellino whose telephone number is (571) 272-3905. The examiner can normally be reached on Monday-Friday 7:00-4:00.

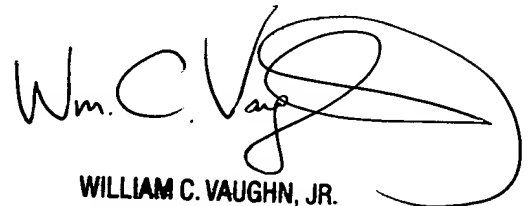
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



JEA
September 1, 2005



Wm. C. Vaughn, Jr.
WILLIAM C. VAUGHN, JR.
PRIMARY EXAMINER